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<b>Effective on 12/08/2004.</b> <b>Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).</b>		<b>Complete if Known</b>	
<b>FEE TRANSMITTAL</b> <b>For FY 2006</b>		Application Number	10/719,063
		Filing Date	11/24/03
		First Named Inventor	David W. NELSON
		Examiner Name	Rowan
		Art Unit	3643
<input checked="" type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27		Attorney Docket No.	36729-198472
<b>TOTAL AMOUNT OF PAYMENT</b>		<b>(\$)</b>	<b>0</b>

<b>METHOD OF PAYMENT</b> (check all that apply)	
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**FEE CALCULATION (All the fees below are due upon filing or may be subject to a surcharge.)**

1. BASIC FILING, SEARCH, AND EXAMINATION FEES							
Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	300	150	500	250	200	100	
Design	200	100	100	50	130	65	
Plant	200	100	300	150	160	80	
Reissue	300	150	500	250	600	300	
Provisional	200	100	0	0	0	0	

2. EXCESS CLAIM FEES			Small Entity	
Fee Description	Fee (\$)		Fee (\$)	Fee (\$)
Each claim over 20 (including Reissues)	50		25	
Each independent claim over 3 (including Reissues)	200		100	
Multiple dependent claims	360		180	

<u>Total Claims</u>	<u>Extra Claims</u>	<u>Fee (\$)</u>	<u>Fee Paid (\$)</u>	<u>Multiple Dependent Claims</u>
- 20 or HP	x	=		<u>Fee (\$)</u> <u>Fee Paid (\$)</u>
HP = highest number of total claims paid for, if greater than 20.				
<u>Indep. Claims</u>	<u>Extra Claims</u>	<u>Fee (\$)</u>	<u>Fee Paid (\$)</u>	
- 3 or HP	x	=		
HP = highest number of total claims paid for, if greater than 3.				

**3. APPLICATION SIZE FEE**  
If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

<u>Total Sheets</u>	<u>Extra Sheets</u>	<u>Number of each additional 50 or fraction thereof</u>	<u>Fee (\$)</u>	<u>Fee Paid (\$)</u>
- 100 =	/50	(round up to a whole number) x	=	

<b>4. OTHER FEE(S)</b>		<u>Fees Paid (\$)</u>
Non-English Specification, \$130 fee (no small entity discount)		
Other (e.g., late filing surcharge):		

<b>SUBMITTED BY</b>			
Signature		Registration No. (Attorney/Agent)	36,729
Name (Print/Type)	Andrew C. Aitken	Telephone	202 344 4000
		Date	11/13/06

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BOARD OF PATENT APPEALS AND INTERFERENCES

In re application of:

David W. NELSON

Appl. No. 10/719,063

Confirmation No. 9139

Filed: November 24, 2003

For: Capturing Device for Insects

Art Unit: 3643

Examiner: Rowan

Atty. Docket No.: 36729-198472

Customer No.:

26694

**REPLY TO EXAMINER'S ANSWER**

Commissioner for Patents  
P. O. Box 1450  
Alexandria, VA 22313-1450

Sir:

In response to the Examiner's Answer, the Applicant respectfully submits this reply.

Central to disagreement between the Examiner and the Applicant is whether the prior art teaches or suggests providing a device for capturing pests that includes "a compressible and pliable material" that will collapse and form a concave depression that conforms to the shape of the insect.

It is the Examiner's first position that if one "wraps up" an insect in a sheet of paper (such as in a post-it note or the glue trap of Hughes) that this limitation has been met. The Applicant respectfully disagrees with the Examiner's position. As used in the patent and as seen in the drawings, the substrate is made in such a manner to allow a pest to displace the substrate when it is restrained so that a portion of the pest is below the surface of the regions of the

substrate directly adjacent to the pest. Wrapping up an insect in a sheet of paper does not inherently meet this limitation. There no teaching or suggestion that wrapping up an insect in a piece of paper coated with adhesive would result in the insect being “embedded” within the paper substrate. Wrapping it with paper is not embedding it within the paper.

The Examiner’s second argument is that because “all materials are somewhat compressible” it would seem that when pressure or force from the rear surface is applied, it will compress the substrate to some extent. First, the Applicant disagrees with the examiner’s premise and academic argument that all material is compressible. A sheet of paper -- like a post-it note or the substrate of Hughes -- cannot be appreciably compressed. Second, even assuming that paper can be theoretically compressed, there is no teaching, disclosure or suggestion that it can be compressed in such a manner to form a concave depression to conform to the shape of the insect and therefore “partially embed” said insect within the substrate as claimed.

According to common sense, when you use a piece of paper, such as a newspaper to swat a fly, you don’t embed the insect within the paper -- rather, you squash the fly. In the alternative the fly may be crushed, killed and fall to the floor. The claimed invention works materially different than the devices relied upon by the Examiner because it teaches and claims having the substrate collapse around the insect to embed the insect.

In connection with the Examiner’s comments regarding Sherman, the Examiner apparently presently only applies the reference to teach using a discontinuous adhesive. It is the Examiner’s position that one would use a discontinuous adhesive to save money in the manufacturing. In response to the Examiner, the Applicant responds as follows:

First, there is no suggestion in Sherman that the adhesive is discontinuous to save on

costs. Rather, on information and belief, the wells were created in Sherman to help with the ability to mount the device in a vertical position and the wells (which result in the discontinuous distribution of adhesive) impede the flow of the adhesive.

Second, the Applicant disagrees with the Examiner's premise that the use of a discontinuous substrate would necessarily save money. The costs of the adhesive may be small in comparison with the costs of the manufacture of the trap and the cost of applying the adhesive in a discontinuous manner may significantly eclipse any costs that could be saved by reducing the amount of adhesive applied. In other words, the discontinuous distribution of adhesive on a device may be more expensive.

### **Conclusion**

For the foregoing reasons and the reasons fully set forth in the main brief, it is respectfully submitted that each of the pending claims are patentable over the cited references. Accordingly, the Examiner's rejection of these claims should be reversed.

Respectfully submitted,

Date: Nov. 13, 2006



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